

House File 578 - Introduced

HOUSE FILE 578
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 158)

A BILL FOR

1 An Act relating to termination of parental rights and adoption
2 proceedings, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 422.9, subsection 2, paragraph c, Code
2 2017, is amended to read as follows:

3 c. Add the amount by which expenses paid or incurred
4 in connection with the adoption of a child by the taxpayer
5 exceed three percent of the net income of the taxpayer, or of
6 the taxpayer and spouse in the case of a joint return. The
7 expenses may include medical and hospital expenses of the
8 biological mother which are incident to the child's birth and
9 are paid by the taxpayer, welfare agency fees, legal fees, and
10 all other fees and costs relating to the adoption of a child if
11 the child is placed by ~~a child-placing agency licensed under~~
12 ~~chapter 238~~ or by a person making an independent placement
13 an adoption service provider according to the provisions of
14 chapter 600. If the taxpayer claims an adoption tax credit
15 under section 422.12A, the taxpayer shall recompute for
16 purposes of this subsection the amount of the deduction by
17 excluding the amount of qualified adoption expenses, as defined
18 in section 422.12A, used in computing the adoption tax credit.

19 Sec. 2. Section 422.12A, subsection 1, paragraph a, Code
20 2017, is amended to read as follows:

21 a. "Adoption" means the permanent placement in this state
22 of a child by the department of human services, by ~~a licensed~~
23 ~~agency under chapter 238~~ an adoption service provider as
24 defined in section 600A.2, or, by an agency that meets the
25 provisions of the interstate compact in section 232.158, ~~or~~
26 ~~by a person making an independent placement according to the~~
27 ~~provisions of chapter 600.~~

28 Sec. 3. Section 600.2, subsection 1, Code 2017, is amended
29 to read as follows:

30 1. "Child", "parent", "parent-child relationship",
31 "termination of parental rights", "biological parent",
32 "stepparent", "guardian", "custodian", "guardian ad litem",
33 "minor", "adoption service provider", "certified adoption
34 investigator", "adult", "agency", "department", "court", and
35 "juvenile court", ~~"independent placement"~~ mean the same as

1 defined in [section 600A.2](#).

2 Sec. 4. Section 600.8, subsection 1, paragraph c,
3 subparagraph (1), Code 2017, is amended to read as follows:

4 (1) A background information investigation of the medical
5 and social history of the biological parents of the minor
6 person to be adopted and a report of the investigation shall be
7 made by the ~~agency, the person making an independent placement~~
8 adoption service provider, the department, or an a certified
9 adoption investigator prior to the placement of the minor
10 person to be adopted with any prospective adoption petitioner.

11 Sec. 5. Section 600.8, subsection 2, paragraph a,
12 subparagraph (1), Code 2017, is amended to read as follows:

13 (1) A preplacement investigation and report of the
14 investigation shall be completed and the prospective adoption
15 petitioner approved for a placement by the person making the
16 investigation prior to any ~~agency or independent adoption~~
17 service provider or department placement of a minor person in
18 the petitioner's home in anticipation of an ensuing adoption.

19 Sec. 6. Section 600.8, subsections 3, 4, 8, and 10, Code
20 2017, are amended to read as follows:

21 3. The department, an agency, or an a certified adoption
22 investigator shall conduct all investigations and reports
23 required under [subsection 2 of this section](#).

24 4. A postplacement investigation and the report of the
25 investigation shall be completed and filed with the juvenile
26 court or court prior to the holding of the adoption hearing
27 prescribed in [section 600.12](#). Upon the filing of an adoption
28 petition pursuant to [section 600.5](#), the juvenile court or
29 court shall immediately appoint the department, an agency, or
30 an a certified adoption investigator to conduct and complete
31 the postplacement report. Any person who has gained relevant
32 background information concerning a minor person subject to an
33 adoption petition shall, upon request, fully cooperate with the
34 conducting of the postplacement investigation by disclosing any
35 relevant information requested, whether contained in sealed

1 records or not.

2 8. Any person designated to make an investigation and report
 3 under this section may request an agency, certified adoption
 4 investigator, or state agency, within or outside this state,
 5 to conduct a portion of the investigation or the report, as
 6 may be appropriate, and to file a supplemental report of such
 7 investigation or report with the juvenile court or court.
 8 In the case of the adoption of a minor person by a person
 9 domiciled or residing in any other jurisdiction of the United
 10 States, any investigation or report required under this section
 11 which has been conducted pursuant to the standards of that
 12 other jurisdiction shall be recognized in this state.

13 10. The department, ~~or~~ an agency, or a certified adoption
 14 investigator may conduct any investigations required for
 15 an interstate or interagency placement. Any interstate
 16 investigations or placements shall follow the procedures and
 17 regulations under the interstate compact on the placement of
 18 children. Such investigations and placements shall be in
 19 compliance with the laws of the states involved.

20 Sec. 7. Section 600.9, Code 2017, is amended to read as
 21 follows:

22 **600.9 Report of expenditures — penalty.**

23 1. a. A biological parent shall not receive any thing of
 24 value as a result of the biological parent's child or former
 25 child being placed with and adopted by another person, unless
 26 that thing of value is an allowable expense under subsection 2.

27 b. Any person assisting in any way with the placement or
 28 adoption of a minor person shall not charge a fee which is
 29 more than usual, necessary, and commensurate with the services
 30 rendered.

31 c. If the biological parent receives any prohibited thing
 32 of value, if a person gives a prohibited thing of value, or if
 33 a person charges a prohibited fee under this subsection, the
 34 person is guilty of a ~~simple~~ serious misdemeanor.

35 2. a. An adoption petitioner of a minor person shall

1 file with the juvenile court or court, prior to the adoption
 2 hearing, a full accounting of all disbursements of any
 3 thing of value paid or agreed to be paid by or on behalf of
 4 the petitioner in connection with the petitioned adoption.
 5 This accounting shall be made by a report prescribed by the
 6 juvenile court or court and shall be signed and verified by the
 7 petitioner. The report shall be accompanied by documentation
 8 of all disbursements made prior to the date of filing of
 9 the report. Only expenses incurred in connection with the
 10 following and any other expenses approved by the juvenile court
 11 or court are allowable:

12 (1) The birth of the minor person to be adopted.

13 (2) Placement of the minor person ~~with~~ by the adoption
 14 ~~petitioner and legal~~ service provider.

15 (3) Legal expenses related to the termination of parental
 16 rights and adoption processes.

17 ~~{3}~~ (4) Pregnancy-related medical care received by the
 18 biological parents or the minor person during the pregnancy
 19 or delivery of the minor person and for medically necessary
 20 postpartum care for the biological parent and the minor person.

21 ~~{4}~~ (5) Living Ordinary and necessary living expenses of
 22 the mother, permitted in an amount not to exceed including but
 23 not limited to the cost of room and board or rent and costs
 24 of housing, food, utilities, and transportation, for medical
 25 purposes only, on a common carrier of persons or an ambulance
 26 related to the pregnancy and birth of the child, in an amount
 27 not to exceed three thousand five hundred dollars and for no
 28 longer than thirty days after the birth of the minor person.

29 ~~{5}~~ (6) Costs of the counseling provided to the biological
 30 parents prior to the birth of the child, prior to the release
 31 of custody, and any counseling provided to the biological
 32 parents for not more than sixty days after the birth of the
 33 child.

34 ~~{6}~~ (7) Living expenses or care of the minor person if the
 35 minor person is placed in foster care during the pendency of

1 the termination of parental rights proceedings.

2 b. All payments for allowable expenses shall be made through
 3 the adoption service provider. An adoption service provider
 4 shall deposit all funds received from prospective adoptive
 5 parents as payments for allowable expenses for a designated
 6 biological parent into an escrow account established with a
 7 financial institution located in this state whose accounts
 8 are insured by the federal deposit insurance corporation, the
 9 national credit union administration, or the federal savings
 10 and loan insurance corporation. Such escrow funds shall not
 11 be commingled with other revenues or expense accounts of the
 12 adoption service provider and separate accounting shall be
 13 maintained for each prospective adoptive parent whose funds
 14 are deposited in the escrow account. Any escrow funds not
 15 disbursed by the adoption service provider for the benefit
 16 of the designated biological parent shall be returned to the
 17 prospective adoptive parents with a full accounting of all
 18 deposits and disbursements. If the adoption service provider
 19 is a licensed attorney, use of the attorney's state-sanctioned
 20 trust account shall satisfy the requirements relative to the
 21 escrow account under this paragraph.

22 ~~b. c.~~ All Any payments for allowable expenses shall be made
 23 to the provider, if applicable, and not directly be made to the
 24 a biological parents parent, but instead shall be made directly
 25 to the provider of the service, product, or other activity to
 26 which the allowable expense is attributable, if applicable.

27 d. The provisions of this subsection do not apply in a
 28 stepparent adoption.

29 3. The juvenile court or court shall review the report prior
 30 to the adoption hearing and shall include findings regarding
 31 the allowance or disallowance of any disbursements or projected
 32 disbursements in the adoption decree.

33 Sec. 8. NEW SECTION. 600.9A Prohibited practices —
 34 penalties.

35 1. All of the following are prohibited practices regarding a

1 proceeding under this chapter:

2 *a.* The provision of termination of parental rights, child
3 placement, or adoption services to any biological or adoptive
4 parent by any person other than an adoption service provider
5 or the department.

6 *b.* The charging of a fee by an adoption service provider
7 that is more than the usual and necessary fee commensurate with
8 the services rendered.

9 *c.* The facilitation, encouragement, or advisement of
10 adoptive parents by an adoption service provider to provide any
11 thing of value beyond those expenditures allowed pursuant to
12 section 600.9.

13 *d.* The knowing encouragement or solicitation of payment of
14 allowable expenses or provision of anything of value beyond
15 those expenditures allowed pursuant to section 600.9, by a
16 person falsely representing that a child may be available for
17 adoption with the intent to defraud the other person.

18 2. A person who commits a prohibited practice under this
19 section is guilty of a serious misdemeanor for the first
20 violation and a class "C" felony for any second or subsequent
21 violation.

22 Sec. 9. Section 600.13, subsection 5, Code 2017, is amended
23 to read as follows:

24 5. An interlocutory or a final adoption decree shall be
25 entered with the clerk of court. Such decree shall set forth
26 any facts of the adoption petition which have been proven to
27 the satisfaction of the juvenile court or court and any other
28 facts considered to be relevant by the juvenile court or court
29 and shall grant the adoption petition. If so designated in
30 the adoption decree, the name of the adopted person shall be
31 changed by issuance of that decree. The clerk of the court
32 shall, within thirty days of issuance, deliver one certified
33 copy of any adoption decree to the petitioner, one copy of any
34 adoption decree to the department and any ~~agency or person~~
35 ~~making an independent placement~~ adoption service provider who

1 placed a minor person for adoption, and one certification
 2 of adoption as prescribed in [section 144.19](#) to the state
 3 registrar of vital statistics at no charge. Upon receipt of
 4 the certification, the state registrar shall prepare a new
 5 birth certificate pursuant to [section 144.23](#) and deliver to
 6 the parents named in the decree and any adult person adopted
 7 by the decree a copy of the new birth certificate. The parents
 8 shall pay the fee prescribed in [section 144.46](#). If the person
 9 adopted was born outside this state but in the United States,
 10 the state registrar shall forward the certification of adoption
 11 to the appropriate agency in the state of birth. A copy of any
 12 interlocutory adoption decree vacation shall be delivered and
 13 another birth certificate shall be prepared in the same manner
 14 as a certification of adoption is delivered and the birth
 15 certificate was originally prepared.

16 Sec. 10. Section 600.16, subsection 1, unnumbered paragraph
 17 1, Code 2017, is amended to read as follows:

18 Any information compiled under [section 600.8, subsection 1](#),
 19 paragraph "c", relating to medical and developmental histories
 20 shall be made available at any time by the clerk of court, the
 21 department, or any ~~agency which~~ adoption service provider that
 22 made the placement to:

23 Sec. 11. Section 600.16A, subsection 2, paragraph a, Code
 24 2017, is amended to read as follows:

25 ~~a. An agency~~ The department or an adoption service provider
 26 involved in placement shall contact the adopting parents or the
 27 adult adopted child regarding eligibility of the adopted child
 28 for benefits based on entitlement of benefits or inheritance
 29 from the terminated biological parents.

30 Sec. 12. Section 600.16A, subsection 3, paragraph a,
 31 unnumbered paragraph 1, Code 2017, is amended to read as
 32 follows:

33 In addition to other procedures by which adoption records
 34 may be opened under [this section](#), if both of the following
 35 conditions are met, the department, the clerk of court, or the

1 ~~agency which~~ adoption service provider that made the placement
2 shall open the adoption record for inspection and shall reveal
3 the identity of the biological parents to the adult adopted
4 child or the identity of the adult adopted child to the
5 biological parents:

6 Sec. 13. Section 600.16A, subsection 3, paragraph c, Code
7 2017, is amended to read as follows:

8 c. Notwithstanding the provisions of this subsection, if
9 the adult adopted person has a sibling who is a minor and who
10 has also been adopted by the same parents, the department, the
11 clerk of court, or the ~~agency which~~ adoption service provider
12 that made the placement may deny the request of either the
13 adult adopted person or the biological parent to open the
14 adoption records and to reveal the identities of the parties
15 pending determination by the juvenile court or court that there
16 is good cause to open the records pursuant to subsection 2.

17 Sec. 14. Section 600.20, Code 2017, is amended to read as
18 follows:

19 **600.20 Availability of assistance.**

20 Financial assistance shall be available only if the child
21 to be adopted was under the guardianship of the state, county,
22 or ~~a licensed child-placing~~ an agency immediately prior to
23 adoption. The one-hundred-eighty-day period of residence in
24 the proposed home required in section 600.10 shall not apply to
25 this section.

26 Sec. 15. Section 600A.2, Code 2017, is amended by adding the
27 following new subsections:

28 NEW SUBSECTION. 01. "*Adoption service provider*" means an
29 agency or a licensed attorney.

30 NEW SUBSECTION. 3A. "*Certified adoption investigator*"
31 means a person who is certified and approved by the department
32 of human services, after inspection by the department of
33 inspections and appeals, as being capable of conducting an
34 investigation under section 600.8.

35 Sec. 16. Section 600A.2, subsection 2, Code 2017, is amended

1 to read as follows:

2 2. "Agency" means a child-placing agency as defined in
3 section 238.1 ~~or the department.~~

4 Sec. 17. Section 600A.2, subsection 10, Code 2017, is
5 amended by striking the subsection.

6 Sec. 18. Section 600A.4, subsection 1, Code 2017, is amended
7 to read as follows:

8 1. A parent shall not permanently alter the parent-child
9 relationship, except as ordered by a juvenile court or
10 court. However, custody of a minor child may be assumed by a
11 stepparent or a relative of that child within the fourth degree
12 of consanguinity or transferred by an acceptance of a release
13 of custody. A person who assumes custody or an agency adoption
14 service provider which accepts a release of custody under this
15 section becomes, upon assumption or acceptance, the custodian
16 of the minor child.

17 Sec. 19. Section 600A.4, subsection 2, paragraphs a and d,
18 Code 2017, are amended to read as follows:

19 a. Shall be accepted only by an ~~agency or a person making an~~
20 ~~independent placement~~ adoption service provider.

21 d. (1) Shall contain written acknowledgment of the
22 biological parents that after the birth of the child three
23 hours of counseling regarding the decision to release
24 custody and the alternatives available have been offered
25 to the biological parents by the agency, ~~the person making~~
26 ~~an independent placement, an investigator as defined in~~
27 ~~section 600.2, or other qualified counselor regarding the~~
28 ~~decision to release custody and the alternatives available~~
29 ~~to the biological parents~~ department or an adoption service
30 provider. The release of custody shall also contain written
31 acknowledgment of the acceptance or refusal of the counseling
32 by the biological parent.

33 (2) If accepted, the counseling shall be provided after
34 the birth of the child and prior to the signing of a release
35 of custody or the filing of a petition for termination of

1 parental rights as applicable. Counseling shall be provided
 2 only by a person who is qualified under rules adopted by the
 3 department of human services which shall include a requirement
 4 that the person complete a minimum number of hours of training
 5 in the area of adoption-related counseling approved by the
 6 department. If counseling is accepted, the counselor shall
 7 provide an affidavit, which shall be attached to the release of
 8 custody, when practicable, certifying that the counselor has
 9 provided the biological parent with the requested counseling
 10 and documentation that the person is qualified to provide the
 11 requested counseling as prescribed by this paragraph "d". The
 12 requirements of this paragraph "d" do not apply to a release
 13 of custody which is executed for the purposes of a stepparent
 14 adoption.

15 Sec. 20. Section 600A.4, subsection 2, paragraph f,
 16 subparagraphs (1) and (4), Code 2017, are amended to read as
 17 follows:

18 (1) A biological parent may also provide ongoing
 19 information to the adoptive parents, as additional medical
 20 or social history information becomes known, by providing
 21 information to the clerk of court, the department of ~~human~~
 22 ~~services~~, or the agency which adoption service provider that
 23 made the placement, and may provide the current address of
 24 the biological parent. The clerk of court, the department of ~~of~~
 25 ~~human services~~, or the agency which adoption service provider
 26 that made the placement shall transmit the information to the
 27 adoptive parents if the address of the adoptive parents is
 28 known.

29 (4) The department shall prescribe forms designed to obtain
 30 the family medical and social history and shall provide the
 31 forms at no charge to any agency adoption service provider or
 32 person who executes a release of custody of the minor child or
 33 who files a petition for termination of parental rights. The
 34 existence of this report does not limit a person's ability to
 35 petition the court for release of records in accordance with

1 other provisions of law.

2 Sec. 21. Section 600A.4, subsection 3, Code 2017, is amended
3 to read as follows:

4 3. Notwithstanding the provisions of subsection 2, the
5 department or an agency or a person making an independent
6 placement adoption service provider may assume custody of a
7 minor child upon the signature of the one living parent who has
8 possession of the minor child if the ~~agency or a person making~~
9 ~~an independent placement~~ department or an adoption service
10 provider immediately petitions the juvenile court designated
11 in section 600A.5 to be appointed custodian and otherwise
12 petitions, either in the same petition or within a reasonable
13 time in a separate petition, for termination of parental rights
14 under section 600A.5. Upon the custody petition, the juvenile
15 court may appoint a guardian as well as a custodian.

16 Sec. 22. NEW SECTION. 600A.6C Report of expenditures —
17 penalty.

18 1. *a.* A biological parent shall not receive any thing of
19 value as a result of the biological parent terminating the
20 parent's parental rights, unless that thing of value is an
21 allowable expense under subsection 2.

22 *b.* Any person assisting in any way with the termination
23 of parental rights shall not charge a fee which is more than
24 usual, necessary, and commensurate with the services rendered.

25 *c.* If the biological parent receives any prohibited thing
26 of value, if a person gives a prohibited thing of value, or if
27 a person charges a prohibited fee under this subsection, the
28 person is guilty of a serious misdemeanor.

29 2. *a.* The petitioner shall file with the juvenile court
30 or court, prior to the termination hearing, a full accounting
31 of all disbursements of any thing of value paid or agreed
32 to be paid by or on behalf of the petitioner or intended
33 adoptive parent in connection with the petitioned termination.
34 This accounting shall be made by a report prescribed by the
35 juvenile court or court and shall be signed and verified by the

1 petitioner. The report shall be accompanied by documentation
2 of all disbursements made prior to the date of filing of
3 the report. Only expenses incurred in connection with the
4 following and any other expenses approved by the juvenile court
5 or court are allowable:

6 (1) The birth of the minor person to be adopted.

7 (2) Placement of the minor person by the adoption service
8 provider.

9 (3) Legal expenses related to the termination of parental
10 rights and adoption processes.

11 (4) Pregnancy-related medical care received by the
12 biological parents or the minor person during the pregnancy
13 or delivery of the minor person and for medically necessary
14 postpartum care for the biological parent and the minor person.

15 (5) Ordinary and necessary living expenses of the mother
16 including but not limited to the costs of housing, food,
17 utilities, and transportation for medical purposes related
18 to the pregnancy and birth of the child, in an amount not to
19 exceed three thousand five hundred dollars and for no longer
20 than thirty days after the birth of the minor person.

21 (6) Costs of the counseling provided to the biological
22 parents prior to the birth of the child, prior to the release
23 of custody, and any counseling provided to the biological
24 parents for not more than sixty days after the birth of the
25 child.

26 (7) Living expenses or care of the minor person during the
27 pendency of the termination of parental rights proceedings.

28 *b.* All payments for allowable expenses shall be made through
29 the adoption service provider. An adoption service provider
30 shall deposit all funds received from prospective adoptive
31 parents as payments for allowable expenses for a designated
32 biological parent into an escrow account established with a
33 financial institution located in this state whose accounts
34 are insured by the federal deposit insurance corporation, the
35 national credit union administration, or the federal savings

1 and loan insurance corporation. Such escrow funds shall not
 2 be commingled with other revenues or expense accounts of the
 3 adoption service provider and separate accounting shall be
 4 maintained for each prospective adoptive parent whose funds
 5 are deposited in the escrow account. Any escrow funds not
 6 disbursed by the adoption service provider for the benefit
 7 of the designated biological parent shall be returned to the
 8 prospective adoptive parents with a full accounting of all
 9 deposits and disbursements. If the adoption service provider
 10 is a licensed attorney, use of the attorney's state-sanctioned
 11 trust account shall satisfy the requirements relative to the
 12 escrow account under this paragraph.

13 c. Any payments for allowable expenses shall not be made to
 14 a biological parent, but instead shall be made directly to the
 15 provider of the service, product, or other activity to which
 16 the allowable expense is attributable, if applicable.

17 d. The provisions of this subsection do not apply in a
 18 stepparent adoption.

19 3. The juvenile court or court shall review the report prior
 20 to the termination hearing and shall include findings regarding
 21 the allowance or disallowance of any disbursements or projected
 22 disbursements in the termination order.

23 Sec. 23. Section 600A.10, Code 2017, is amended to read as
 24 follows:

25 **600A.10 Termination procedures — prohibited practices —**
 26 **penalty for violation.**

27 1. Any biological parent who chooses to identify the
 28 other biological parent and who knowingly and intentionally
 29 identifies a person who is not the other biological parent in
 30 the written release of custody or in any other document related
 31 to the termination of parental rights proceedings is guilty of
 32 a ~~simple~~ serious misdemeanor.

33 2. Any person who signs or accepts a release of custody
 34 under section 600A.4 prior to the expiration of the
 35 seventy-two-hour period required is guilty of a serious

1 misdemeanor.

2 3. a. All of the following are prohibited practices
3 regarding a proceeding under this chapter:

4 (1) The provision of termination of parental rights, child
5 placement, or adoption services to any biological or adoptive
6 parent by any person other than an adoption service provider
7 or the department.

8 (2) The charging of a fee by an adoption service provider
9 that is more than the usual and necessary fee commensurate with
10 the services rendered.

11 (3) The facilitation, encouragement, or advisement of
12 adoptive parents by an adoption service provider to provide any
13 thing of value beyond those expenditures allowed pursuant to
14 section 600A.6C.

15 (4) The knowing encouragement or solicitation of payment
16 of allowable expenses or provision of anything of value beyond
17 those expenditures allowed pursuant to section 600A.6C, by a
18 person falsely representing that a child may be available for
19 adoption with the intent to defraud the other person.

20 b. A person who commits a prohibited practice under this
21 subsection is guilty of a serious misdemeanor for the first
22 violation and a class "C" felony for any second or subsequent
23 violation.

24 Sec. 24. Section 714.8, Code 2017, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 21. Knowingly, by deception and with intent
27 to defraud another person, represents that the child expected
28 as the result of that person's pregnancy or the pregnancy of
29 another person may be available for adoption.

30 Sec. 25. Section 714.11, subsection 1, paragraph b, Code
31 2017, is amended to read as follows:

b. A fraudulent practice as set forth in section 714.8,
subsections 2, 8, ~~and 9~~, and 21.

34	EXPLANATION
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35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill relates to adoption and termination of parental
3 rights. The bill defines "adoption service provider" to
4 include a licensed child-placing agency or a licensed attorney.
5 The bill eliminates the definition of and the use of the term
6 "independent placement" relative to termination of parental
7 rights and adoption proceedings, thereby only allowing adoption
8 service providers and the department of human services (DHS) to
9 make placements of minor children for the purposes of adoption.
10 The bill also defines "certified adoption investigator", for
11 the purposes of termination of parental rights and adoption
12 proceedings, replacing the term "investigator" which did not
13 require certification or approval of such investigators by
14 the department of human services. The bill makes conforming
15 changes throughout the Code to reflect the new definitions,
16 including relative to allowable tax deductions from net income.
17 The bill clarifies that the one certified copy of the
18 adoption decree to the petitioner, and the one copy of any
19 adoption decree to DHS, an adoption service provider, and the
20 state registrar of vital statistics, currently required to be
21 provided by the clerk of the court, are to be provided at no
22 charge.

23 The bill requires reporting of expenditures and limitations
24 on payment of only allowable expenditures relating to
25 termination of parental rights similar to those requirements
26 currently in place for adoption. As with adoptions, the bill
27 prohibits a biological parent from receiving any thing of value
28 as a result of the biological parent terminating the parent's
29 parental rights, unless that thing of value is an allowable
30 expense as provided in the bill. Any person assisting in any
31 way with the termination of parental rights is prohibited
32 from charging a fee which is more than usual, necessary, and
33 commensurate with the services rendered. If the biological
34 parent receives any prohibited thing of value, if a person
35 gives a prohibited thing of value, or if a person charges a

1 prohibited fee, the person is guilty of a serious misdemeanor.

2 As with an adoption petitioner, the bill also requires a
3 termination of parental rights petitioner to file with the
4 juvenile court or court, prior to the termination hearing, a
5 full accounting of all disbursements of any thing of value
6 paid or agreed to be paid by or on behalf of the petitioner
7 or intended adoptive parent in connection with the petitioned
8 termination. The accounting is to be made by a report
9 prescribed by the juvenile court or court and signed and
10 verified by the petitioner. The report is required to be
11 accompanied by documentation of all disbursements made prior to
12 the date of filing of the report. The bill specifies allowable
13 expenses similar to those allowed relative to an adoption
14 proceeding.

15 Additionally, the bill provides that all payments for
16 allowable expenses shall be made through the adoption
17 service provider and that the adoption service provider shall
18 deposit all funds received into an escrow account. The bill
19 specifies that such escrow funds shall not be commingled with
20 other revenues or expense accounts of the adoption service
21 provider and separate accounting shall be maintained for each
22 prospective adoptive parent whose funds are deposited in the
23 escrow account. Any escrow funds not disbursed by the adoption
24 service provider for the benefit of the designated biological
25 parent shall be returned to the prospective adoptive parents
26 with a full accounting of all deposits and disbursements.
27 The bill provides that if the adoption service provider is a
28 licensed attorney, use of the attorney's state-sanctioned trust
29 account shall satisfy the requirement relative to the escrow
30 account.

31 As with similar provisions relating to payment of allowable
32 expenses under an adoption proceeding, any payments for
33 allowable expenses relative to a termination of parental rights
34 proceeding shall not be made to a biological parent, but
35 instead shall be made directly to the provider of the service,

1 product, or other activity to which the allowable expense
2 is attributable, if applicable. The provisions relating
3 to allowable expenditures and reporting do not apply in a
4 stepparent adoption.

5 The bill directs that, as in an adoption proceeding, the
6 juvenile court or court shall review the expenditure report
7 prior to the termination hearing and shall include findings
8 regarding the allowance or disallowance of any disbursements or
9 projected disbursements in the termination order.

10 The bill also includes provisions relating to prohibited
11 practices relating to termination procedures. The bill amends
12 and increases the penalty from a simple misdemeanor to a
13 serious misdemeanor for the existing prohibition against a
14 person who signs or accepts a release of custody prior to the
15 expiration of the required 72-hour period. The bill includes
16 prohibited practices, the violation of which is a serious
17 misdemeanor for a first offense and a class "C" felony for any
18 second or subsequent violation. The bill also includes similar
19 prohibited practices relative to an adoption proceeding.

20 A simple misdemeanor is punishable by confinement for
21 no more than 30 days or a fine of at least \$65 but not more
22 than \$625 or by both. A serious misdemeanor is punishable
23 by confinement for no more than one year and a fine of at
24 least \$315 but not more than \$1,875. A class "C" felony is
25 punishable by confinement for no more than 10 years and a fine
26 of at least \$1,000 but not more than \$10,000.

27 The bill also includes in the definition of a fraudulent
28 practice under Code section 714.8, a person, knowingly, by
29 deception and with intent to defraud another person, represents
30 that the child expected as the result of that person's
31 pregnancy or the pregnancy of another person may be available
32 for adoption. The bill also makes this fraudulent practice a
33 fraudulent practice in the third degree, which is an aggravated
34 misdemeanor. An aggravated misdemeanor is punishable by
35 confinement for no more than two years and a fine of at least

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1 \$625 but not more than \$6,250.